

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:14-cr-139 ALM/KPJ
	§	
DOUGLAS DUANE FLOWERS	§	

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government’s request for revocation of Defendant’s supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 28, 2017, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Andy Williams.

On June 24, 2011, Defendant was sentenced by the Honorable James H. Payne, United States District Judge of the Eastern District of Oklahoma, to a sentence of thirty-three (33) months imprisonment followed by a thirty-six (36) month term of supervised release for the offense of Conspiracy to Commit Fraud in Connection with Access Devices. Defendant began his term of supervision on November 6, 2012. This case was transferred to the Eastern District of Texas and was assigned to the Honorable Richard A. Schell on August 25, 2014.

On February 6, 2017, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the “Petition”) (Dkt. 18). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related

to any controlled substances, except as prescribed by a physician; (3) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as Defendant is released from the program by the probation officer; and (4) Defendant shall pay restitution in the amount of \$18,885.26.

The Petition alleges that Defendant committed the following violations: (1) Defendant submitted a urine specimen on August 29, 2016, at Addiction Treatment Resources, McKinney, Texas, which tested positive for methamphetamine. On August 30, 2016, Defendant verbally admitted to probation officer that Defendant used said drugs. Alere Toxicology Service, Inc., confirmed positive specimen; (2) On November 8, 2016, Defendant submitted a urine specimen at Addiction Treatment Resources, McKinney, Texas, which tested positive for methamphetamine. On November 11, 2016, Defendant admitted verbally and in writing to probation officer that Defendant used said substance. Alere Toxicology Services, Inc., confirmed positive specimen; (3) On December 16, 2016, Defendant submitted a urine specimen at Addiction Treatment Resources, McKinney, Texas, which tested positive for methamphetamine. On December 19, 2016, Defendant denied verbally and in writing to probation officer that Defendant used said substance. Defendant did report he attended a party on December 15, 2016, where Defendant could have possibly unknowingly been given drugs. Alere Toxicology Services, Inc., confirmed positive specimen; (4) On January 9, 2017, Defendant submitted a urine specimen at Addiction Treatment Resources, McKinney, Texas, which tested positive for methamphetamine. On the same day, Defendant admitted verbally to probation officer that Defendant used said substance. Alere Toxicology Services, Inc., confirmed positive specimen; (5) On January 24, 2017, Defendant submitted a urine specimen at the U.S. Probation Office which tested positive for methamphetamine. Defendant

verbally admitted to probation officer that Defendant last used said substance on January 20, 2017. Also, when Defendant was questioned as to why Defendant failed to submit to drug testing on January 13, and January 20, 2017, Defendant stated because he had used methamphetamine prior to those collection dates; (6) Defendant failed to submit to drug testing as directed on January 13, and January 20, 2017; and (7) Defendant failed to pay restitution as instructed in November and December, 2016.

At the hearing, Defendant entered a plea of true to allegation one (1). Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

#### **RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments presented at the March 28, 2017 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty one (21) months, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in FCI Seagoville, if appropriate, and Defendant to participate in Bureau of Prisons' abbreviated drug treatment program.

**SIGNED this 10th day of April, 2017.**

A handwritten signature in black ink, appearing to read 'K. Priest Johnson', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON  
UNITED STATES MAGISTRATE JUDGE